

THE BAR ON WOMEN TO ENTER PLACES OF WORSHIP: A VIOLATION OF FUNDAMENTAL RIGHTS

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ABSTRACT

“Unity in Diversity hasn’t been depicted in the different religions of India with the one possible exception of discrimination towards women, be it Islam, Hinduism or Christianity.” Bias in the eyes of Gods towards the gender when coupled with the defense of long-prevailing custom having the force of law, is inexplicable and completely unconstitutional. It violates the Fundamental rights of women as they are not subjected to equal treatment and that too for their gods, as alleged by the priests. The legal battle does not stand against the religion as enshrined under Article 25 of the Constitution; it stands against the wrong religious practices and customs followed in these religions which are subject to Part III.¹ The Constitution aims for elimination of discrimination against the social backward classes and women. The state is under a duty to protect and make laws for the protection of women.² The Indian government must also not forget that development of women’s rights has just beencognes, implying that principles of international law can override the principles of domestic law.³ The paper also throws light upon the recent Supreme Court judgment negating any kind of discrimination against women to enter into the Sabrimala temple to offer their prayers.

KEYWORDS: Fundamental Rights of Women, Lord Ayappa, Worship & Commission on the Status on Women

Received: Aug 11, 2018; **Accepted:** Aug 31, 2018; **Published:** Dec 24, 2018; **Paper Id.:** IJPSLIRJUN20192

INTODUCTION: EXISTING PRACTICES: SOCIO-LEGAL ASPECT

It has been an age-old phenomenon not only in India that women have been refused the right to worship and freely practice their religion despite the Constitution offering it as a fundamental right under Article 25. Practices in a religion have always been subject to the legal tussle between Articles 25 and 26. Article 25 (1) empowers a person to freely practice and propagate his/her religion, subject to public order, morality and health. This right would not affect any law which is introduced for the purpose of social reform and welfare. On the other hand, under Article 26 (b) a religious denomination has the power to regulate its own affairs which is again subject to public order, morality and health. This phenomenon of refusing entry has been evident in various forms of customs and practices of the religions. The below are references of such practices and the reason why they should not be practiced in the modern era of following the constitution.

THE SABRIMALA CUSTOM

The temple of Sabrimala located, ironically in a state where women dominate i.e. Kerala, bars women of age 10-50 from entering the temple. Shockingly, it is the rarest of the Hindu temples that allow Non-Hindus to enter. The reason for barring women is manifold. Firstly, Lord Ayappa was a celibate and hence, his devotees are

¹INDIA CONST., art. 13.

²INDIA CONST, art. 15, cl.3.

³Vishaka v. State of Rajasthan (1997) 6 SCC 241 (India).

also required to maintain celibacy during the pilgrimage. Secondly, the presence of women would negatively affect the sexual urge of the male devotees. Thirdly, it was alleged that the women undergoing menstruation cannot remain dedicated and be impure during their period of pilgrimage. Moreover, the trust, an autonomous body has one member as a woman, who herself has no rights to enter into the temple. The reasons cited above are evident of the Patriarchal essence, that exist in the society depriving one of the equality one deserves because of biological setback that differentiates the two genders.⁴

The ban is imposed under the authority granted by Rule 3 (b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 which establishes that a woman is at the whims of the custom or usage to enter a place of worship. In other words, if a custom or usage prohibits women from exercising their right of worship by entering a temple, then she shall not be entitled to the same. On the other hand, Section 3 of the Kerala Hindu Places of Public Worship (Authorisation of Entry) i.e. the parent act of the former legislation, makes banning of entry into any Hindu temple of any class of people punishable.

The main point of determination here is what will prevail, Article 25 of Article 26? This came into the consideration before the Kerala High Court in the case of *S. Mahendran v. The Secretary, Travancore Devaswom Board, Thiruvananthapuram*, where the complainant sought directions to be issued by the Court to enforce Rule 3 (b) banning the entry of women in the sanctum Sanctorum of the Sabrimala Temple. The Court erroneously held that the firstly, the ban was restricted to a particular age group and not women as a class saving it from Article 25 and bringing it within the protective purview of Article 26 (b) that gave the power to temple to regulate its own affairs. The Hon'ble High Court has superficially enforced the wrong in the exercise of a coloured legislation, something which is done indirectly in continuance of Article 26 (b) as an essentially religious custom and directly prohibited by Articles 14 and 15 which promote equality and non-discrimination on grounds of sex, making menstruating women a separate class with no intelligible differentia. Secondly, it was held that there was no discrimination on the grounds of sex as the trust had the rights to manage its own affairs. But, the court did not go into the merits of the case, as rights under Article 26 are only available to a religious denomination. But, this case relates to a public temple managed by the Travancore Devaswom Board, which is "State" for the purpose of Article 12. This brings it outside of the protective scope of Article 26 (b). If it is argued that the temple is a religious denomination, then it is clearly subject to public order, health and morality. Morality as per Article 26 is Constitutional Morality. The principles of Non-Discrimination, equality, social reform, Rule of Law, Constitutionalism etc. all form the part and parcel of Constitutional Morality which can be enforced against the religious denomination "*The traditions and conventions have to grow to sustain the value of such a morality.*"⁵ Rule 3 (b) should be declared as ultra vires the Constitution as well as ousting the parent Act in itself.

There has been an emerging trend that shows that Article 25(2)(b) overshadows Article 26(b) which was specifically designed for social reform, both for the protection of not just castes but classes, which is a very wider term(including women). It has been held under *Sri Venkataramana v. State of Mysore*⁶ that Right to manage its own affairs is subject to Article 25 even if it is a private temple. Moreover, the judicial approach lies towards protection of women and their religious beliefs. *Pinniyakkal v. The District Collector, Madurai*⁷ has paved way for women to become *poojaris*, if her

⁴M.A.Deviah, *Here's why women are barred from Sabrimala*, FirstPost, Jan, 2016, <https://www.firstpost.com/india/why-women-are-barred-from-sabarimala-its-not-because-they-are-unclean-2583694.html>

⁵Manoj Narula v. Union of India, (2014) 9 SCC 1 (India).

⁶Sri Venkataramana v. State of Mysore, AIR 1958 SC 255(India).

⁷Pinniyakkal v. The District Collector, Madurai, 2008 (3) TLNJ 640 (Civil) (India).

ancestor offering poojas dies with no male heir. She must also be given adequate protection by the State to take advantage of her right. In this case, the Court pointed out the irony, the double standards in the society and the difference between a female god and a female worshipper. The Delhi High Court in its recent judgment of *U. N. Bhardwaj v. Y. N. Bhardwaj*⁸ struck down an age-old custom where only male descendants had rights to inherit the proceeds from the Bari (rotation rights) in a priest's family. These judgments reflect that the constitutional mandate exerts a much heavy burden on the State to prevent discrimination against women than the State regulating the Customary Practice in the name of an "Essential Religious Practice".

In the matter that came as an appeal before the Supreme Court in *Indian Young lawyers Association v. The State of Kerala*,⁹ the Kerala government has played a diplomatic role which establishes the fact that the stand of the government is highly influenced by the vote-bank of the party. The government of Kerala substantially turned its stand towards favouring women and opposing the ban that was supported by the earlier party. The Supreme Court has recently paved the way for women to enter the temple recognizing the fact that the property of the temple was being maintained by the State as they were granted proceeds out of the State treasury and the Devaswom Board is born as a result of a statute and therefore cannot discriminate women. Moreover, it technically settled the dispute between Article 25 (b) i.e. Right to practice any religion and Article 26 (b) wherein a religious denomination has a right to manage its own affairs by not recognizing the concept of a "private temple". Not allowing a certain class from entering the temple is a practice of untouchability which is banned by the virtue of Article 17 of the Constitution. The ban cannot be associated with or be essential for the practice of the Hindu religion; it is neither a ritual nor a ceremony.¹⁰

Empowerment must come from within the religion. It is they who form the base of the society. The religions depict how a man portrays and distinguishes himself in the presence of others. This difference is not always bad. But, when it is aimed at a specific class with such male fide intention that not only others see them as impure or not worthy of the social bonding, but, they picture themselves to be lacking what it needs to be the primary and the superior living strata. This is not what is expected from a democracy whose Constitution is considered to be a guardian of rights and a source of anti-discriminatory policies.

THE HAJI ALI DARGAH, MUMBAI

Though, women are allowed to enter the mosque, they are not allowed to enter the place where the holy shrine is situated. Till 2012, women were allowed to enter the dargah.¹¹ However, after that a fatwa was issued banning the entry of women. It has been considered by the priests that it is a grievous sin if a woman is allowed in the inner sanctum. This ban was challenged in a PIL filed by NGO Bharatiya Muslim Mahila Andolan and it was felt that such ban can only be enforced if the reasons put forth by the Trust were justified by the Quran and they must be in consonance with Article 14 of the Constitution which means that there must be some *intelligible differentia* for the separation of classes. It was argued that as per Article 26 of the Constitution the trustees had the right to manage the affairs of the religion in

⁸U. N. Bhardwaj v. Y. N. Bhardwaj, 173 (2010) DLT 483 (India).

⁹Indian Young lawyers Association v. The State of Kerala, (2017) 10 SCC 689 (India).

¹⁰AmitAnandChaudhary, *Sabarimala Case: Women's right to pray is equal to that of men, observes SC*, The times of India, July, 2018, <https://timesofindia.indiatimes.com/india/sabarimala-case-womens-right-to-pray-is-equal-to-that-of-men-observes-sc/articleshow/65038935.cms>

¹¹Ruhi Bhasin, *Ban illegal, let women enter Haji Ali sanctum*, The Indian Express, August, 2016, <https://indianexpress.com/article/india/india-news-india/bombay-high-court-allows-entry-of-muslim-women-at-haji-ali-dargah/>

their own way. It has been held by the court after 2 years of close scrutiny that “Right to manage its own affairs cannot override Right to practice religion.”¹²

All the religious sects must be subjected to Articles 14, 15, 19 and 25. *Arguendo*, a practice even forming an essential part of the religion cannot be allowed to be followed if it violates the provisions of the Constitution and there is a need for social reform.¹³ And, this practice of barring women from entering into holy shrines is not an essential legal practice of Islam as Haji Ali became the first in the country to adopt it in 2011 and even after perusal of the Quran and the Hadith, the sources of Muslim Law, it was observed by the Court that Quran allowed women to enter graveyards¹⁴. Moreover, the land on which Haji Ali sits was leased to the trustees by the government way back in 1936. Therefore, the trust’s right to manage the affairs under Article 26 (b) was subject to the agreement or the scheme prepared for its administration by the government¹⁵ as it fell into the ambit of “secularism”.¹⁶

This judgment not only encompasses and protects the right of women to enter into places of worship but it is a one breaking the male appropriation of religion. It was admitted by the Court that the Haji Ali Dargah Trust is a public trust and its public character pulled it out of the protective scope or of Article 26 (b), making it subject to Part III to prevent discrimination against women. An inference can be drawn by this judgment that State not only should prevent it from violating any of the fundamental rights, but it has a rather greater duty to enforce the rights of private individuals from being violated by a private institution of a public character like a temple or a mosque. Such a concern was raised by Dr. B.R. Ambedkar wherein he tried to assert that temples were public spaces akin to the road, pavements and parks. He had argued that it was not merely an issue of religion, but of Civil Rights, material and symbolic equality. The Bombay High Court in this landmark judgment has upheld that denial of entry into the shrine not only violated a woman’s right to practice religion, but it had a far reaching impact as it violated Right of Equality and Non-Discrimination enshrined in the Constitution. This judgment can only be enforced where there is State intervention in a way of police protection. The condition of the women in a society like India where religion dominates rather than rights is compared to that of an airplane with a constitution as its engine, still waiting to fly.

SHANI SHINGNAPUR TEMPLE

It is the first, unprecedented judgment that recognized the right of women to enter places of worship.¹⁷ A custom recorded for the past 400 years was not upheld. The Court made it clear that it is the duty of the State to enforce the Maharashtra Hindu Places of Worship (Entry Authorisation) Act, 1956. It initially enabled Dalits from entering the temple, but now it has been held to equally apply to women. This is a law under Article 25 (2) (b) not affecting an individual’s rights under 25 (1). Reference was made by the Court to the Supreme Court’s decision in Venkataramana Devaru v. State of Mysore¹⁸, where it was held that the temple-entry legislations applied to religious denominations as well, making a right not only constitutional but also statutory in nature. The trust authorities reacted in an adverse manner

¹² Dr. NoorjehanSafiaNiaz and Anr. v. State of Maharashtra, Haji Ali Trust and Anr. (Bom.), (2015) PIL No 106 of 2014 (India).

¹³ M. Ajamal Khan v. The Election Commission of India (2007) 1 MLJ 91 (India) ; Miss Fathema Hussain Sayed v. Bharat Eduaction Society AIR 2003 Bom 75 (India).

¹⁴ Ghulam Rasool Dehlvi, *The Haji Ali dargah ruling*, FirstPost, Aug, 2016, <https://www.firstpost.com/india/the-haji-ali-dargah-ruling-bombay-high-courts-verdict-is-a-win-for-the-indian-women-2978108.html>

¹⁵ Mahomed Oosmanvs Essack Saleh Mahomed Vanjara (1937) 39 BOMLR 502(India).

¹⁶ Ratilal Panchanand Gandhi v. State of Bombay, AIR 1954 SC 388 (India).

¹⁷ Smt.V idya Bal & Anr.v. The State of Maharashtra & Ors. (Bom.), PILNo. 55 of 2016.

¹⁸ Supra note 7.

to this and banned even men from entering the temple. This raged the men, who tried entering the temple by breaking the barriers. It became a battle ground only when they were subject to the “women treatment”. The irony is this that none of those men were stopped, picked or detained just like the women activists were, even when they tried to enter the temple after the Bombay High Court order. This shows that the muscle biological power inflicted upon men is respected by religion and that they are the true deservers of their religious rights unlike the women. This is not at all a heartening thought in this democracy.

THE LEGAL TUSSLE BETWEEN ARTICLES 14, 15(1), 25 AND 26

Right of Equality under Article 14 is a right guaranteed to all citizens and enforceable against the State. Justice Bhagwati explained in *Bachan Singh v State of Punjab*¹⁹ that Rule of Law permeates the entire fabric of the Indian Constitution excludes Arbitrariness or Unreasonableness. In the *Sabrimala Case*, where Rule 3 (b) is ultra vires the Section 3 of the Parent Act, which throws open the Hindu Temples for all classes, must be declared unconstitutional. Moreover, this Rule is not in consonance with Article 14 as it is arbitrary against the menstruating women. Freedom of religion guaranteed by Article 25 is “Subject to other provisions of this Part” which means that it has to be exercised subject to the other fundamental rights including the ‘right to equality.’ When International Law has not been given much weightage by the Courts even after being a signatory to many Conventions on Human Rights, it is not too much to expect that the Court should expel any gender discrimination out of the society even if it is practiced in the name of religion. In the past, the Courts have adopted a very positive approach in interpreting the relationship between Articles 25 and 26 has in fact supported social reforms and the efforts of the State to rid the religion of its fundamentalist remnants.²⁰ Article 26 (b) is subject to Part III of the Constitution as held by the Madras High Court where it was held that even assuming that Purdah System formed as essential religious practice in Islam, it was held that it may be regulated in the interests of public order, health and morality and other provisions of Part III. Even, seeking information about the menstrual cycles was held to be violative of Right to Privacy under Article 21.²¹

A response made by the judges of the Kerala high court in *Haseena Mansoor v. State of Kerala* proves to be an arrow in the juggling rights of women. This case deals with a widow Muslim Lady and her minor child who claimed gratuity of her deceased husband by the respondent Kerala State Electricity Board. The respondent refused the same on the ground that the rule that existed in the organizing declaring that gratuity shall be paid to the surviving partner except if that partner was a Muslim Lady. The petitioner challenged the same being violative of Articles 14 and 15 (1) whereas the respondent contended the same rule was in consonance with the personal law of Muslim which is not subject to Part III. The court held especially in reference to secular matters that no ground referable to any custom, usage or personal laws, contrary to the equality principle enshrined in the Constitution could be enforced. The court held the impugned provision to be un-Constitutional. This judgment gives a chance to the Supreme Court to correct its previous decisions where personal laws were given primacy over the Constitution w.r.t. principles of gender equality.²²

Even the doctrine of substantive equality directs attention to the question of historic and systematic disadvantage

¹⁹*Bachan Singh v State of Punjab*, AIR 1980 SC 898 (India) .

²⁰ S.P. Sathe (1999), ‘*Gender, Constitution and the Courts*’, in *Engendering Law : Essays in Honour of Lotika Sarkar*, 137.s.

²¹*Neera Mathur v. LIC*, AIR 1992 SC 392 (India).

²²*Shashikala Gurple & Shashikant Hajare, Tradition-Modernity Polarities and Human Rights of Women: Tracking Judicial Responses in India*, AIJRHASS, 2014.

and the actual impact of reform on the disadvantaged group. The objective of substantive equality is the elimination of the root structure of inequality in the society.²³ Even, the analytical theory proposed by Austin and Holland talks about custom as a source of law and establishes that it may be a source of law but not the law itself. Custom derives its force by an Act of the Sovereign and since there is no recognition they need not be followed. As per this theory the custom of not allowing women to enter into places of worship has no force of law and therefore, they cannot be enforced by the temple authorities.

The Directive Principle of State Policies' protected in Articles 38 and 39 create a network whereby it aims for regulating the socio-economic framework to hinder discrimination arising out of caste, creed, race, sex etc. so that every human being develops in an equalitarian social space.

It has been analysed by the statement made by Sardar Bhopinder Singh Man²⁴ about the necessity of abolishing untouchability by allowing the distressed classes to enter. This was the main aim of the Father of Nation as per him. Not allowing people of particular sect is considered to be a barrier that divides people. The Protection of Civil Rights Act, 1955 aims at uprooting such a disability. Now, such acts must be held to be inclusive of women who are metaphorically being treated as "untouchables" and must be enforced in furtherance of Article 17 of the Constitution that abolishes untouchability. Section 7 of the Civil Rights Act, 1955 provides punishment for offences arising out of untouchability keeping in mind that the court shall not recognize any custom or usage to be legal or justified from restricting entry if that custom practices untouchability.

It is shockingly explained with the example of Sub-Saharan countries that where the formal system of law is more protective than the informal system, then also discrimination may prevail. In the African Countries, customs and religious law are excluded from the non-discrimination laws, thereby making the Supreme law of the State subject to the law of the religion. But, fortunately in the Indian Constitution under Article 13 recognizes Customs as "law-in-force" and subjects it to the Fundamental Rights under Part III of the Constitution. Thus, it establishes that the Constitution is supreme.

THE ISSUE OF HUMAN RIGHTS

The United Nations regulates the International Laws on Human Rights. The UN charter is the first ever international agreement to which India is a signatory which makes gender equality a fundamental human right. Commission on the Status on Women (CSW) which is inter-governmental in nature initiated its operation For the first time in 1947 to discuss how Indian constitution can harmonize or constitute international principles of gender equality in it. The Universal Declaration of Human Rights like the International Covenant of Economic, Social and Cultural Rights, 1966 and the International Covenant of Social and Political Rights, 1966 conceptualize equality between men and women. Even the labour covenants were used to incorporate equality of the two sexes.

India declared at the Fourth World Conference on Women in Beijing that it would set up a commission for women at every level and each sector that would defend women's human rights, both on the social and the legal aspects. It would even establish a national level commission that would implement and monitor the plans and the working of the other commission.²⁵

²³ Kapur, R. & B. Cossman, *Subversive Sites*, New Delhi: Sage Publications (1995) 175-180.

²⁴ Constitutional Assembly Debates, Volume VII, 29 Nov. 1948.

²⁵ Supra Note 3.

Thereby the Constitution had empowered the Parliament to make laws for giving effect to international agreements under Article 253 and also imposing a constitutional duty by enacting legislations for implementation of Covenants under Article 51 (c)²⁶

International Conventions and the Protection of Human Rights Act is enacted to prevent gender based discrimination and to effectuate right to life, including empowerment of economic, social and cultural rights to women.

The Convention on Elimination of all kinds of Discrimination Against Women aims at ending multiple forms of discrimination that women face based on the grounds of race, ethnic or religious identity, disability, age, class, caste or other factors. There are different degrees as to how does a woman gets affected and all of them should be dealt in a different manner. Early interim measures can reduce the negative impact on women and society.

Where there is a gap in a Domestic Law, or it is completely absent, then Courts can look into International Conventions for deriving its source. The Supreme Court has done the same in the case of *Visakha v. The state of Rajasthan* as there was no law occupying the space for Sexual Harassment at workplaces. The content of these norms, forms the basis of interpretation of the fundamental Rights under Articles 14, 15, 19 (1) (g) and 21. Therefore, any international convention which cannot be said to be expressly inconsistent with the fundamental rights and in harmony with its spirit must be read into those provisions to enlarge the meaning and content thereof, to promote the object of the Constitutional guarantee.²⁷

Article 18 of the Universal Declaration of Human Rights declare that everyone has the right to freedom of thought, conscience and religion.

If the above-mentioned right is read into with Article 27 of the International Covenant on Civil and Political Rights that says if there is a religious minority existing then such persons cannot be denied right by the community to enjoy their religious freedom, then it shows the right of an individual to practice his/her religion vis-à-vis right of the community.

Therefore, as per Section 5a of CEDAW state parties are required to work for social reforms for modification of social and cultural patterns of individual conduct in order to eliminate "prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".

Article 10 of CEDAW provides that the state parties should take all measures that ensure equality between men and women at all levels.

The Convention of CEDAW aims to take appropriate measures to change or abolish laws or customs that discriminate between the two sexes.²⁸

POSSIBLE SOLUTIONS FOR IMPROVEMENT OF CONDITION OF WOMEN

Uniform Civil Code

Article 44 of the Constitution enshrines the necessity of subjecting the country's religion at par with each other and thus, aiming to bring them under the umbrella of the constitution, hoping for social reform and for aiding to the social

²⁶INDIA CONST., art. 51(c).

²⁷ Supra Note 3.

²⁸ Convention on Elimination of all kind of Discrimination against Women, art. 2(f).

advancement of the backward classes and the women. Moreover, what needs to be equal are the rights rather than the law.

Campaigns such as Happy to Bleed

NGO's and campaigns play a very strong role in a democracy especially with the advent of Public Interest Litigations. The recent trend of cases has seen a lot of NGO's fighting for the rights of citizens by filing the petitions in the Court of Law. The campaigns help the starved, recognize their rights and thus use collectivism as a progressive tool to overcome the "mighty". Encouraging women into non-traditional activities where they have been previously restrained from, empowers them. This has become the need of the hour as the gender-gap report showed that the growth towards equality had slowed. Women's rights advocacy groups could pave their way into such a problem.

National Commission for Women

This commission is a very strong set-up to review the existing laws, recommend on the bills, and intervene in the Court's proceedings. It can become a powerful tool to help the Indian women to enjoy their rights which the constitution has judiciously rendered them.

Schemes by the Government

For enhancing the condition of women in the religious background, a scheme could be launched which rewards those denominations which take steps to empower the women and backward classes of their religions, such as helping the denomination in setting up a school to impart its minority education to those who desire.

CONCLUSIONS

"I measure the progress of a community by the degree of progress which women have achieved." Ambedkar, the father of the Constitution is truly pointing out the need for non-discrimination against women. The aim of empowerment of women within the caste is to show that such a problem has to be eliminated from the root of the society. It advances the social status of women and aids towards awareness of the rights that the constitution provides them with. The judiciary as a watchman has been pulling up women from the strands of the society. The Shani Shingnapur case and the Haji Ali have been the perfect example of this setting. Now all eyes are on the final judgment of the Supreme Court in India Young lawyers Association v. The State of Kerala, that will lay the ultimatum of the rights of women. Supreme Court, speaking by CJI Dipak Mishra has laid down that woman right to pray lie on equal footing to those of men. This decision will put an end to the trickery between traditions, reform and modernity. Thus, ending the age-long traditional approach that the temple of pray belonged to the men. It is only when the three-tiers of the government work together in harmony, they'll be able to reach the goal that the Supreme Lex has rightfully enshrined. Their entry will not be just a symbol of gender equality, but their dawn into the world of modernity.

REFERENCES

1. *INDIA CONST., art. 13.*
2. *INDIA CONST, art. 15, cl.3.*
3. *Vishaka v. State of Rajasthan (1997) 6 SCC 241 (India).*
4. *M. A. Deviah, Here's why women are barred from Sabarimala, First Post, Jan, 2016, <https://www.firstpost.com/india/why-women-are-barred-from-sabarimala-its-not-because-they-are-unclean-2583694.html>*

5. *Manoj Narula v. Union of India*, (2014) 9 SCC 1 (India).
6. *Sri Venkataramana v. State of Mysore*, AIR 1958 SC 255(India).
7. *Pinniyakkal v. The District Collector, Madurai*, 2008 (3) TLNJ 640 (Civil) (India).
8. *U. N. Bhardwaj v. Y. N. Bhardwaj*, 173 (2010) DLT 483 (India).
9. *Indian Young lawyers Association v. The State of Kerala*, (2017) 10 SCC 689 (India).
10. *Amit Anand Chaudhary, Sabarimala Case: Women's right to pray is equal to that of men, observes SC*, *The times of India*, July, 2018, <https://timesofindia.indiatimes.com/india/sabarimala-case-womens-right-to-pray-is-equal-to-that-of-men-observes-sc/articleshow/65038935.cms>
11. *Ruhi Bhasin, Ban illegal, let women enter Haji Ali sanctum*, *The Indian Express*, August, 2016, <https://indianexpress.com/article/india/india-news-india/bombay-high-court-allows-entry-of-muslim-women-at-haji-ali-dargah/>
12. *Dr. NoorjehanSafiaNiaz and Anr. v. State of Maharashtra, Haji Ali Trust and Anr. (Bom.)*, (2015) PIL No 106 of 2014 (India).
13. *M. Ajamal Khan v. The Election Commission of India* (2007) 1 MLJ 91 (India); *Miss Fathema Hussain Sayed v. Bharat Eduaction Society* AIR 2003 Bom 75 (India).
14. *Ghulam Rasool Dehlvi, The Haji Ali dargah ruling*, *FirstPost*, Aug, 2016, <https://www.firstpost.com/india/the-haji-ali-dargah-ruling-bombay-high-courts-verdict-is-a-win-for-the-indian-women-2978108.html>
15. *Mahomed Oosmanvs Essack Saleh Mahomed Vanjara* (1937) 39 BOMLR 502(India).
16. *Ratilal Panchanand Gandhi v. State of Bombay*, AIR 1954 SC 388 (India).
17. *Smt.V idya Bal & Anr.v. The State of Maharashtra & Ors. (Bom.)*, PILNo. 55 of 2016.
18. *Supra note 7.*
19. *Bachan Singh v State of Punjab*, AIR 1980 SC 898 (India) .
20. *S.P. Sathe* (1999), 'Gender, Constitution and the Courts', in *Engendering Law : Essays in Honour of Lotika Sarkar*, 137.s.
21. *Neera Mathur v. LIC*,AIR 1992 SC 392(India).
22. *Shashikala Gurpur & Shashikant Hajare, Tradition-Modernity Polarities and Human Rights of Women: Tracking Judicial Responses in India*, AIJRHASS, 2014.
23. *Kapur, R. & B. Cossman, Subversive Sites*, New Delhi: Sage Pubications (1995) 175-180.
24. *Constitutional Assembly Debates*, Volume VII, 29 Nov. 1948.
25. *Supra Note 3.*
26. *INDIA CONST.*, art. 51(c).
27. *Supra Note 3.*
28. *Convention on Elimination of all kind of Discrimination against Women*, art. 2(f).

